

REMARKS/ARGUMENTS

The rejection presented in the Office Action dated September 7, 2007 (hereinafter Office Action) has been considered but is believed to be improper. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant appreciates the indication of allowability for Claims 2, 3, 8, 11, 12, 17, 20, 21 and 24.

Applicant respectfully traverses the § 102 (e) rejection based on the teachings of U.S. Patent No. 7,194,758 to Waki *et al.* (hereinafter “Waki”) because Waki does not teach or suggest each of the claimed limitations. For example, Waki does not teach or suggest presenting content items in a user terminal in a first mode or a second mode wherein a presentation element is changed according to timing information or in response to a user action, respectively, as claimed. Rather, the cited portions of Waki at Cols. 15-16 discuss processing program information contained in tables (NIT or EIT) where such tables and information is not presented in a user terminal. It is noted that the mere broadcasting/transmission of information does not correspond to presentation of such information. The only information identified as being displayed is an Electric Program Guide (EPG) table (Col. 16, lines 1-7), which is displayed on a TV monitor. There is no indication that any presentation element corresponding to a content item is changed or that the manner in which such presentation element is changed determines the mode in which to display Waki’s EPG. Contrary to the assertion in the Office Action, different modes of presentation for a content item are not disclosed.

In addition, Applicant fails to recognize how the asserted portions of Waki correspond to the claimed content items and the claimed attaching of timing information to the content items. The citation to element 516 (program data storage units) appears to indicate that Waki’s programs are asserted as corresponding to the claimed content items. However, this alignment would be misplaced as it would fail to account for the claimed media stream being broadcast. The program data cannot correspond to both the claimed media stream and the claimed content items. Alternatively, the program information also

would not correspond to the claimed content items as there is no discussion of attaching timing information to the program information to indicate the timing for presenting the program information. Rather, Waki's program information (eid) identifies the broadcasting start and duration time for a single program, not the presentation timing for the eid. Thus, the apparent alignment of Waki to the claimed invention set forth in the Office Action fails to correspond to at least the claimed presentation in a first or second mode and attaching of timing information to content items. Without a presentation of correspondence to each of the claimed limitations, the § 102(e) rejection is improper.

Applicant notes that to anticipate a claim the asserted reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the patent claim; *i.e.* every element of the claimed invention must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Therefore, all claim elements, and their limitations, must be found in the prior art reference to maintain the rejection based on 35 U.S.C. § 102. Applicant respectfully submits that Waki does not teach every element of independent Claims 1, 10, 19 and 27 in the requisite detail and therefore fails to anticipate Claims 1, 4-7, 9-10, 13-16, 18-19, 22-23 and 25-28. Applicant accordingly requests that the rejection be withdrawn.

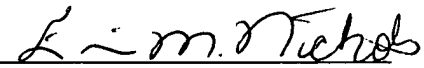
Moreover, dependent Claims 4-7, 9, 13-16, 18, 22, 23, 25, 26 and 28 depend from independent Claims 1, 10, 19 and 27, respectively, and also stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Waki. While Applicant does not acquiesce to the particular rejection to these dependent claims, the rejection is also improper for the reasons discussed above in connection with the independent claims. These dependent claims include all of the limitations of the independent claims and any intervening claims, and recite additional features which further distinguish them from the cited reference. Therefore, the rejection of dependent Claims 4-7, 9, 13-16, 18, 22, 23, 25, 26 and 28 is improper. Applicant accordingly requests that the § 102(e) rejection be withdrawn.

Authorization is given to charge Deposit Account No. 50-3581 (KOLS.153US) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC
8009 34th Avenue South, Suite 125
Minneapolis, MN 55425
952.854.2700

Date: January 7, 2008

By: 

Erin M. Nichols
Reg. No. 57,125